

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

MICHAEL B. JOHNSON,	)	
COLLEEN KITCHENS,	)	
ALICIA HOLTON,	)	Case No. 2013-CV-7468
STEPHEN GARCIA-AGOSTO,	)	
ROBERT ROTELLA, SR.,	)	
ROBERT MARSH a/k/a	)	Honorable Judge Charles P. Kocoras
BOBBY MARSH,	)	
KRYSTYN A. WEIN a/k/a	)	Magistrate Judge Young B. Kim
KRYSTYN A. EVANS,	)	
ROBIN KRIER,	)	
STEVEN MCANALLY a/k/a	)	
STEVE MCANALLY,	)	
ERIC RINKOFF and	)	
JOSEPH FRED GARCIA	)	
on behalf of themselves, and on	)	
behalf of and as representative of	)	
those who are similarly situated.	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
PUSHPIN HOLDINGS, LLC, JAY	)	
COHEN, LEONARD MEZEI, ARI R.	)	
MADOFF, ALISHA RIOS, LOUISA	)	
TATBAK a/k/a LOUISA FERRERA,	)	
GCN HOLDING, LLC, and	)	
SHAUN REDWOOD,	)	
CIT FINANCIAL USA, INC.,	)	
	)	
Defendants.	)	

**NOTICE OF APPEAL**

Plaintiffs, Michael Johnson, Colleen Kitchens, Alicia Holton, Stephen Garcia-Agosto, Robert Rotella, Sr., Robert Marsh a/k/a Bobby Marsh, Krystyn A. Wein a/k/a Krystyn A. Evans, Robin Krier, Steven McAnally a/k/a Steve McAnally, Eric Rinkoff and Joseph Fred Garcia, on behalf of themselves and on

behalf of those similarly situated, appeal the Order and Memorandum Opinion of August 13, 2014 denying Plaintiffs' Motion to Remand, and the Memorandum Opinion and Order of March 23, 2015, granting the Motion to Dismiss the Second Amended Complaint under Fed.R.Civ.P. 12(b)(6), and that part of the Memorandum Opinion and Order of August 6, 2015, which denied Plaintiffs' Motion for Reconsideration and to Alter and/or Amend the Judgment and Dismissal Order under Fed.R.Civ.P. 59(a) and (e) and 52(b), and the Judgment entered on August 18, 2015, to the United States Court of Appeals for the Seventh Circuit.

Plaintiffs request that the Order denying the Motion to Remand to the Circuit Court of Cook County, Illinois be reversed; this case be remanded to the State Court and that the Order and Judgment dismissing the Second Amended Complaint be vacated for lack of subject matter jurisdiction.

Plaintiffs also request, in the event that the Court of Appeals does not order the case remanded to the State Court, that the Judgment and the Orders dismissing the Second Amended Complaint under Fed.R.Civ.P. 12(b)(6), and denying Plaintiffs' Motion to Alter or Amend the Judgment under Fed.R.Civ.P. 59(a) and (e) and 52(b), be reversed, and that this case be remanded to the District Court with instructions to hear it on the merits.

Respectfully submitted,

/s/ David M. Duree

David M. Duree, ARDC 0697087  
David M. Duree & Associates, P.C.  
312 South Lincoln Avenue  
P.O. Box 1416  
O'Fallon, IL 62269  
Tel: 618-628-0186  
Fax: 618-628-0259  
Email: [law@dmduree.net](mailto:law@dmduree.net)

*Attorney for Plaintiffs, Michael B. Johnson,  
Colleen Kitchens, Alicia Holton, Stephen  
Garcia-Agosto, Robert Rotella, Sr., Robert  
Marsh a/k/a Bobby Marsh, Krystyn A.  
Wein a/k/a Krystyn A. Evans, Robin Krier,  
Steven McAnally a/k/a Steve McAnally,  
Eric Rinkoff*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on August 19, 2015, he electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorneys of record, addressed as follows:

[jhirsh@lplegal.com](mailto:jhirsh@lplegal.com)

[celutz@lplegal.com](mailto:celutz@lplegal.com)

Mr. Jason B. Hirsh

Ms. Christina E. Lutz  
Levenfield Pearlstein, LLC  
2 N. LaSalle Street, Suite 1300  
Chicago, IL 60602

[ssilberfein@mosessinger.com](mailto:ssilberfein@mosessinger.com)

Mr. Scott E. Silberfein  
Moses & Singer, LLP  
405 Lexington Avenue  
New York, NY 10174-1299  
*Counsel for the Defendants*

[stacy@caclawyers.com](mailto:stacy@caclawyers.com)

Ms. Stacy Bardo  
The Consumer Advocacy Center, PC  
180 West Washington  
Suite 700  
Chicago, IL 60602  
*Local Counsel for Plaintiffs*

/s/ David M. Duree

David M. Duree, ARDC 0697087  
David M. Duree & Associates, P.C.  
*Counsel for Plaintiffs*